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7 Attorneys for Defendants,
YA-YA BRAND INCORPORATED,
8 BLUEFLY, INC.; BOP, LLC; SAKS
INCORPORATED; and RON
9 HERMAN, INC.

10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA

12
13 TEXTILE SECRETS
14 INTERNATIONAL, INC.

15 Plaintiff,

16 vs.

17 YA-YA BRAND INCORPORATED;
18 BLUEFLY, INC.; BOP, LLC; SAKS
19 INCORPORATED; RON HERMAN,
20 INC.; and DOES 1 through 10,
inclusive,

21 Defendants.

Case No. CV 06-06297 PLA

**STIPULATION RE PLAINTIFF'S
ACTUAL DAMAGES;
[PROPOSED] ORDER THEREON**

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23 TO THE HONORABLE COURT:

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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY

LOGGED

1 This stipulation is made between plaintiff Textile Secrets International, Inc.
2 (“TSI”), on the one hand, and defendants Ya-Ya Brand Incorporated, Bluefly, Inc.,
3 BOP, LLC, Saks Incorporated, and Ron Herman, Inc. (collectively, “Defendants”),
4 on the other hand, through their respective attorneys of record, with reference to
5 the following facts:

6 **WHEREAS**, TSI has filed a lawsuit against Defendants for copyright
7 infringement, contributory copyright infringement, and violation of 17 U.S.C. §
8 1202(b) (the “Lawsuit”);

9 **WHEREAS**, the Lawsuit contains a prayer for TSI’s damages as a result of
10 the acts alleged;

11 **WHEREAS**, Defendants have issued subpoenas to Elias Aziz-Levi, CPA
12 and Continental Business Credit, Inc. in order to, among other things, gather
13 evidence related to TSI’s alleged actual damages (the “Subpoenas”);

14 **WHEREAS**, TSI has offered to waive its ability to recover its alleged actual
15 damages (including, but not limited to, any alleged lost profits or lost sales,
16 allegedly suffered by TSI as a result of the alleged infringement set forth in the
17 Lawsuit (the “Actual Damages”)) if Defendants withdraw the Subpoenas; and

18 **WHEREAS**, Defendants agree to withdraw the Subpoenas if TSI waives its
19 right to recover its Actual Damages.

20
21 **BASED UPON THE FOREGOING, THE PARTIES HEREBY STIPULATE**
22 **AS FOLLOWS:**

- 23
24 1. Upon execution of this Stipulation, Defendants will withdraw the
25 subpoenas served on Elias Aziz-Levi, CPA and Continental Business Credit, Inc.;
26 2. Upon withdrawal of the Subpoenas, TSI agrees to waive any and all
27 rights, arguments, and claims to recover its alleged Actual Damages in the
28 Lawsuit;

1 3. TSI agrees not to introduce any testimony at trial from either Elias
2 Aziz-Levi, CPA or Continental Business Credit, Inc; and

3 4. TSI agrees not to introduce any documents at trial that evidence,
4 reflect or refer to TSI's finances that: (1) have not already been produced by TSI,
5 or (2) are not specifically identified in TSI's initial disclosures.

6
7 IT IS SO STIPULATED.

8
9 Date: November 5, 2007

STEPTOE & JOHNSON, LLP

10
11 By: 

12 Dylan Ruga
13 Attorneys for Defendants
14

15 Date: November 5, 2007

THE LINDE LAW FIRM

16
17 By: 

18 Douglas A. Linde
19 Attorneys for Plaintiff
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[PROPOSED] ORDER

Based upon the stipulation of the parties, TSI may not: (1) recover its alleged Actual Damages in the Lawsuit, (2) introduce any testimony at trial from either Elias Aziz-Levi, CPA or Continental Business Credit, Inc, and (3) introduce any documents at trial that evidence, reflect or refer to TSI's finances that have not: (a) already been produced by TSI or are (b) not specifically identified in TSI's initial disclosures.

IT IS SO ORDERED:



HON. PAUL L. ABRAMS
UNITED STATES MAGISTRATE JUDGE

11/7/07
DATE

PROOF OF SERVICE

F.R.C.P. 5 / C.C.P. § 1013a(3)/ Cal. R. Ct. R. 2.260

I am a resident of, or employed in, the County of Los Angeles. I am over the age of 18 and not a party to this action. My business address is: Steptoe & Johnson LLP, 2121 Avenue of the Stars, Suite 2800, Los Angeles, California 90067.

On **November 6, 2007**, I served the following listed document(s), by method indicated below, on the parties in this action: **STIPULATION RE PLAINTIFF'S ACTUAL DAMAGES; [PROPOSED] ORDER THEREON**

SEE ATTACHED SERVICE LIST☒ **BY U.S. MAIL**

By placing ☐ the original / ☐ a true copy thereof enclosed in a sealed envelope(s), with postage fully prepaid, addressed as per the attached service list, for collection and mailing at Steptoe & Johnson LLP, 2121 Avenue of the Stars, Suite 2800, Los Angeles, California 90067, following ordinary business practices. I am readily familiar with Steptoe & Johnson LLP's practice for collection and processing of documents for mailing. Under that practice, the document is deposited with the United States Postal Service on the same day as it is collected and processed for mailing in the ordinary course of business.

☐ **BY OVERNIGHT DELIVERY**

By delivering the document(s) listed above in a sealed envelope(s) or package(s) designated by the express service carrier, with delivery fees paid or provided for, addressed as per the attached service list, to a facility regularly maintained by the express service carrier or to an authorized courier or driver authorized by the express service carrier to receive documents, who received these documents at 2121 Avenue of the Stars, Suite 2800, Los Angeles, California, 90067.

☐ **BY PERSONAL SERVICE**

☐ By personally delivering and handing the document(s) listed above to the person(s) identified on the attached service list.

☐ By personally delivering the document(s) listed above to the office address(es) as shown on the attached service list and leaving said document(s) with a clerk or other person in charge, or if no one is in charge leaving it in a conspicuous place in the office(s).

☐ By personally delivering the document(s) listed above to the address(es) as shown on the attached service list and leaving said document(s) with someone of suitable age and discretion residing at said address(es).

☐ **BY ELECTRONIC SERVICE****(via electronic filing service provider)**

By electronically transmitting the document(s) listed above to LexisNexis File and Serve, an electronic filing service provider at www.fileandserve.lexisnexis.com, from the email address _____@steptoe.com, at approximately _____. To my knowledge, the transmission was reported as complete and without error.

☐ **BY ELECTRONIC SERVICE****(to individual persons)**

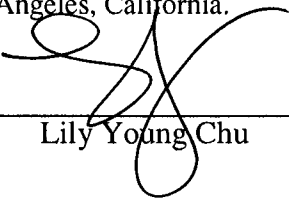
By electronically transmitting the document(s) listed above to the email address(es) of the person(s) set forth on the attached service list from the email address lyoungchu@steptoe.com. To my knowledge, the transmission was reported as complete and without error.

☐ **BY FACSIMILE**

By transmitting the document(s) listed above from Steptoe & Johnson LLP in Los Angeles, California to the facsimile machine telephone number(s) set forth on the attached service list. Service by facsimile transmission was made ☐ pursuant to agreement of the parties, confirmed in writing, or ☐ as a courtesy to the parties.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the above is true and correct.

Executed on November 6, 2007 at Los Angeles, California.



Lily Young Chu

SERVICE LIST

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